

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

This document relates to:

*Track Three Cases*

MDL No. 2804  
Case No. 17-md-2804  
Judge Dan Aaron Polster

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DEFENDANTS' MOTION TO EXCLUDE  
THE OPINIONS AND TESTIMONY OF DANIEL C. MALONE

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Defendants<sup>1</sup> hereby move for an Order granting their Motion to Exclude the Opinions and Testimony of Daniel C. Malone pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and its progeny. As described more fully in the accompanying Memorandum, Malone's opinions lack reliable sources, his methodology is undiscernible, and his analysis and conclusions will not assist the factfinder in this matter. As such, his opinions and testimony should be excluded in their entirety.

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<sup>1</sup> Defendants are: Walmart Inc. ("Walmart"); CVS Indiana, L.L.C., CVS Rx Services, Inc., CVS Pharmacy, Inc., CVS TN Distribution, L.L.C., and Ohio CVS Stores, L.L.C. (together, "CVS"); Giant Eagle and HBC Service Company (together, "Giant Eagle"); Rite Aid Hdqtrs. Corp., Rite Aid of Ohio, Inc., Rite Aid of Maryland, Inc. d/b/a Rite Aid Mid-Atlantic Customer Support Center and Eckerd Corp. d/b/a Rite Aid Liverpool Distribution Center (together, "Rite Aid"); and Walgreens Boots Alliance, Inc., Walgreen Co. and Walgreen Eastern Co., Inc. (together, "Walgreens").

Dated: July 23, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that, this 23rd Day of July 2021, I served a copy of the foregoing via electronic mail on all Track 3 parties, the Court, and Special Master Cohen.

*/s/ John M. Majoras*  
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*Attorney for Walmart Inc.*